

REMARKS/ARGUMENTS

The specification has been formally amended to overcome the Examiner's objections.

A formal drawing of Figs. 1 and 2 is attached hereto.

The rejection of claims 59 and 60 under 35 U.S.C. 112 is respectfully traversed. It is respectfully submitted that these claims correctly set forth the subject matter which applicants regards as his invention.

As described and illustrated, tread surface 5 is not "connected" to shoe sole 6 of sport shoe 7 but forms a part of the shoe sole. The heel end of the shoe sole and its tread surface is **not** rigidly connected to guide member 43. As a matter of fact, it is the stated object of applicant's invention to provide a **pivotal** binding system between a user's foot and the sports device. It is obvious to one skilled in the art that the heel end of the tread surface must be able to be raised from the ski to facilitate skiing. Nowhere does the description describe a rigid connection between guide member 43 and the shoe sole, the guide member merely serving to support and guide the shoe at its sides. As clearly described and illustrated, sport shoe 7 with its tread

surface 5 is pivotally connected to sports device 2 by hinge mechanisms 45, 68 so as to be pivotable relative thereto. Otherwise, the hinge mechanism would be useless, i.e. if the heel end of the tread surface were rigidly connected to guide member 43, the pivotable binding would be useless. As tread surface 5 is pivoted by hinge mechanisms 45, 68, the heel end of the trad surface is raised off guide member 43 of sports device 2. Thus, claims 59 and 60 accurately set forth the subject matter which applicant regards as his invention, and allowance of these claims is respectfully solicited.

As to the Examiner's remarks on the possibility of filing a divisional application for original Figs. 1-6, applicant believes that he is entitled thereto. The cancellation of the subject matter of the original specification no longer claimed herein merely is in response to the Examiner's requirement for election and the corresponding cancellation of the withdrawn claims. It is respectfully submitted that this does not amount to an abandonment of this subject matter. At any rate, this question is moot in the present application and will be pertinent only if and when a divisional application is filed.

A sincere effort having been made to overcome all grounds of objection and rejection, and no issue remaining at bar, favorable reconsideration and allowance of claims 58 to 63 are

respectfully solicited.

Respectfully submitted,
BERNHARD RIEPLER



Kurt Kelman, Reg. No. 18,628
Allison C. Collard, Reg. No. 22,532
Edward R. Freedman, Reg. No. 26,048
Attorneys for Applicants
COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

Enclosure: Formal drawings of Figs. 1 and 2

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP AF, COMMISSIONER FOR PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 29, 2004.



Maria Guastella

R:\USERS\mittendorf\KELMAN\RIEPLER - FINAL AMEND. JULY 04.wpd